

(b) It must ensure that all agents selling Medicare products are trained annually through a CMS endorsed or approved training program or as specified by CMS, on Medicare rules and regulations specific to the plan products they intend to sell.

(c) It must ensure agents selling Medicare products are tested annually by CMS endorsed or approved training program or as specified by CMS.

(d) Upon CMS' request, the organization must provide to CMS, in a form consistent with current CMS guidance, the information necessary for it to conduct oversight of marketing activities.

(e) It must comply with State requests for information about the performance of a licensed agent or broker as part of a state investigation into the individual's conduct. CMS will establish and maintain a memorandum of understanding (MOU) to share compliance and oversight information with States that agree to the MOU.

[73 FR 54250, Sept. 18, 2008, as amended at 73 FR 67412, Nov. 14, 2008; 76 FR 21569, Apr. 15, 2011]

EFFECTIVE DATE NOTE: At 76 FR 54634, Sept. 1, 2011, § 422.2274 was amended by revising paragraphs (a)(1)(ii) introductory text, (a)(1)(ii)(B), (a)(1)(iv) and (a)(4), effective October 31, 2011. For the convenience of the user, the revised text is set forth as follows:

§ 422.2274 Broker and agent requirements.

(a) * * *

(1) * * *

(ii) The compensation amount paid to an agent or broker for enrollment of a Medicare beneficiary into an M A plan is as follows:

* * * * *

(B) For renewals, an amount equal to 50 percent of the initial compensation in paragraph (a)(1)(ii)(A) of this section.

* * * * *

(iv) If the MA organization contracts with a third party entity such as a Field Marketing Organization or similar type entity to sell its insurance products, or perform services (for example, training, customer service, or agent recruitment)—

(A) The total amount paid by the MA organization to the third party and its agents for enrollment of a beneficiary into a plan, if any, must be made in accordance with paragraph (a)(1) of this section; and

(B) The amount paid to the third party for services other than selling insurance prod-

ucts, if any, must be fair-market value and must not exceed an amount that is commensurate with the amounts paid by the MA organization to a third party for similar services during each of the previous 2 years.

* * * * *

(4) Compensation may only be paid for the beneficiary's months of enrollment during a plan year (that is, January through December).

(i) Subject to paragraph (a)(4)(ii) of this section, compensation payments may be made up front for the entire current plan year or in installments throughout the year.

(ii) When a beneficiary disenrolls from a plan during the—

(A) First 3 months of enrollment, the plan must recover all compensation paid to agents and brokers.

(B) Fourth through 12th month of their enrollment (within a single plan year), the plan must recover compensation paid to agents and brokers for those months of the plan year for which the beneficiary is not enrolled.

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§ 422.2276 Employer group retiree marketing.

MA organizations may develop marketing materials designed for members of an employer group who are eligible for employer-sponsored benefits through the MA organization, and furnish these materials only to the group members. These materials are not subject to CMS prior review and approval.

PART 423—VOLUNTARY MEDICARE PRESCRIPTION DRUG BENEFIT

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